

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D. C. 20554**

In the Matter of

Petition for Waiver of the Federal Communi-
cations Commission's Rules Relating to the
Transmission of 911 Calls Made From TTY
Devices Using Digital Wireless Systems

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File No. _____

CC Docket 94-102

To: Wireless Telecommunications Bureau

PETITION FOR WAIVER

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

This Petition is filed on behalf of Commercial Mobile Radio Service carriers identified in Attachment A, who are collectively referred to herein as "Petitioners." By their attorneys, Petitioners respectfully request a waiver of Section 20.18(c) of the Federal Communications Commission's rules, which requires transmission of 911 calls made from Text Telephone ("TTY") devices using digital wireless systems. Petitioners request waiver of the requirement that carriers be capable of transmitting such calls, and request that their obligation for compliance be deferred from January 1, 1999 until such time in the future that it becomes possible for Petitioners to comply with the rule.

Petitioners rely herein upon the mechanism for waiver established in the Order in CC Docket No. 94-102, DA 98-2323 (Wireless Telecommunications Bureau), released November 13, 1998

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("November 13 Order"). As demonstrated herein, good cause exists for this waiver^{1/} because it is economically and technically infeasible for Petitioners to comply with the January 1, 1999 implementation deadline for TTY digital 911 transmissions.

Background and Facts

1. On December 1, 1997, the Commission adopted a *Memorandum Opinion and Order*, CC Docket No. 94-102, FCC 97-402, released December 13, 1997 ("MO&O") which, at para. 59, suspended until October 1, 1998 enforcement of the requirement that licensees providing service on *digital* wireless systems be able to transmit 911 calls made by individuals with speech or hearing disabilities. Suspension of enforcement of the subject Section 20.18(c) of the Commission's Rules was further extended until November 15, 1998,^{2/} and again until January 1, 1999.^{3/}

2. Petitioners have made efforts to assess what steps they would need to take to meet the December 31, 1998 deadline, and have determined that compliance is presently impossible due to the unavailability of equipment to facilitate compliance with Section 20.18(c).

^{1/} "The Commission may exercise its discretion to waive a rule where particular facts would make strict compliance inconsistent with the public interest." WAIT Radio v. FCC, 418 F.2d 1153, 1159 (D.C. Cir. 1969). Waiver of a Commission rule is appropriate where (1) the underlying purpose of the rule will not be served, or would be frustrated, by its application in a particular case, and grant of the waiver is otherwise in the public interest, or (2) unique facts or circumstances render application of the rule inequitable, unduly burdensome or otherwise contrary to the public interest, and there is no reasonable alternative.

^{2/} Order in CC Docket No. 94-102, DA 98-1982 (Wireless Telecommunications Bureau), released September 30, 1998 ("September 30 Order").

^{3/} November 13 Order.

I. Petitioners Intend to Provide Digital System TTY Device Capability

3. Petitioners support the efforts of the Wireless TTY Forum in establishing a Workplan and in identifying solutions for TTY access over digital systems. Petitioners will adopt industry standards developed to implement this technology to the benefit of persons with speech and hearing disabilities. At present, however, compliant equipment is not offered to Petitioners by their manufacturers. Neither are there available to Petitioners any links to other telecommunications service providers which have the software and/or capability to process digital wireless transmissions of 911 calls from TTY devices.

4. Petitioners have reviewed in detail their equipment vendors' proposals to enable Petitioners to provide users of TTY devices with the capability to operate such devices in conjunction with digital wireless phones. The goal is for the manufacturers to provide Petitioners with equipment which is capable of transmitting the 911 call with sufficient error free text to elicit proper 911 response. One challenge is to coordinate the varying factors which result in a successful connection, including the type of vocoder used in the system, the type of text message equipment used, and the type of handset used. The vendors have kept Petitioners apprised of progress with regard to these matters, and both Petitioners and their vendors will continue to follow closely the findings of the TTY Forum and any resulting promulgation of FCC mandates.

II. Petitioners Will Implement TTY/E911 Capability as Soon as Technically Feasible

5. Petitioners anticipate that they will be able to offer reliable TTY/E911 digital wireless service within the next two years. The first step will be for the industry to adopt standards for TTY operation in digital mode. Thereafter, twelve to eighteen months will likely pass before suitable equipment becomes commercially available to Petitioners. Petitioners are dependent upon both their vendors and TTY manufacturers working together cooperatively to develop workable solutions which can be practically implemented by Petitioners. This circumstance complicates Petitioners' ability to predict precisely when implementation of TTY/E911 call delivery will become a standard benefit of subscription to Petitioners' digital wireless services.

III. Petitioners Will Address the Consumer Concerns Referenced in the September 30 Order

6. Petitioners will offer to consumers, to the extent possible in accordance with industry standards, TTY/E911 connections with the functional characteristics set forth in Appendix A of the September 30 Order. Petitioners will also participate in marketing, distribution and consumer education efforts as recommended by the TTY Forum or as adopted by the Commission. Petitioners recognize the value of offering TTY/E911 connections as a part of their wireless digital service, and will seek to have the TTY/E911 feature implemented to full advantage, both as a matter of public health and safety and as a matter of good business practice.

IV. Request for Waiver

7. Petitioners request a waiver of Section 20.18(c). The unique circumstances surrounding the transmission of 911 calls using TTY devices on Petitioners' digital wireless systems warrants special consideration by the Commission. Compliance with the imminent requirement that Petitioners become capable of TTY/E911 digital transmissions is technically infeasible for Petitioners and, as such, would not be in the best interests of their customers.

8. Grant of Petitioners' request for waiver is in the public interest because the unique and unusual circumstances surrounding Petitioners' inability to comply with the implementation deadline is due to circumstances beyond their control. Furthermore, such circumstances are industry wide, and not uniquely attributable to Petitioners' circumstances or efforts in this matter.

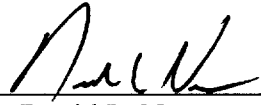
9. Enforcement of Section 20.18(c) requirements against Petitioners would only threaten the ongoing viability of Petitioners' wireless services, some of which are nascent in their operations, and most of which are offered in very rural areas of the United States. Petitioners consistently attempt to offer the best service possible to their subscribers, some of whom would not otherwise receive wireless service in the remote areas where they reside. The FCC has stated numerous times that it seeks to be a proponent of the spread of telecommunications services to rural areas.^{4/} In this case, Petitioners request the opportunity to continue with the high quality of service that they presently offer to their customers, and to be relieved of obligation to offer TTY/E911 transmissions by means of a waiver of Section 20.18(c) the FCC's rules.

^{4/} Report and Order In the Matter of Federal-State Joint Board on Universal Service 12 FCC Rcd 8776, 8799-8806 (May 7, 1997).

Conclusion

For the reasons explained, Petitioners request a waiver of the Commission's requirements for transmission of 911 calls made from TTY devices using digital wireless systems, and, in particular, a waiver of the January 1, 1999 date for commencement of compliance with Rule Section 20.18(c). The Petitioners' showing herein is consistent with the requirements for waiver set forth in the November 13 Order. Furthermore, the public interest benefit in this matter equals or exceeds that which the Commission has found in other instances to be sufficient for waiver. Accordingly, Petitioners request that a waiver and extension be granted as proposed.

Respectfully submitted,

By: 
David L. Nace
Pamela L. Gist
Attorneys for the Petitioners
Identified in Attachment A Hereto

Lukas, Nace, Gutierrez & Sachs, Chartered
1111 19th Street, N.W., Suite 1200
Washington, D.C. 20036
Telephone: 202-857-3500

December 4, 1998

Attachment A

Appalachian Cellular, LLC
BMCT, L.P.
Cellular Network Partnership, a Limited Partnership
Cumberland Cellular Partnership
Great Lakes of Iowa, Inc.
Kaplan Telephone Company
Kentucky RSA 3 Cellular General Partnership
Kentucky RSA 4 Cellular General Partnership
Liberty Cellular, Inc.
MACtel Fairbanks, Inc.
MACtel, Inc.
Midwest Wireless Communications L.L.C.
MRCC, Inc.
North Carolina RSA 3 Cellular Telephone Company
Oklahoma RSA 6 Partnership
Oklahoma Western Telephone Company
Pine Telephone Company
PinPoint Communications, Inc.
RCC Atlantic, Inc.
RCC Minnesota, Inc.
Texas RSA 8 East Limited Partnership
Texas RSA 8 South Limited Partnership
Telepak, Inc.
Union Telephone Company
Western Maine Cellular, Inc.
Wireless Alliance, L.L.C.
Wireless II, L.L.C.

CERTIFICATE OF SERVICE

I, Mike Hunter, an employee of Lukas, Nace, Gutierrez & Sachs, Chartered, hereby certify that on this 4th day of December, 1998, that I have caused a copy of the attached "Petition for Waiver" to be sent by first class mail to the persons listed below:



Mike Hunter

Daniel Phythyon, Chief*
Wireless Telecommunications Bureau
Federal Communications Commission
2025 M Street, N.W., Room 5002
Washington, D.C. 20554

John Cimko, Chief*
Policy Division
Wireless Telecommunications Bureau
Federal Communications Commission
2025 M Street, N.W., Room 7002
Washington, D.C. 20554

Steven Weingarten, Chief*
Commercial Wireless Division
Wireless Telecommunications Bureau
Federal Communications Commission
2100 M Street, N.W., Suite 700
Washington, D.C. 20554

Lawrence Strickling, Chief*
Common Carrier Bureau
Federal Communications Commission
1919 M Street NW, Room 500
Washington, DC 20554

Al McCloud*
Network Services Division
Common Carrier Bureau
2000 M Street, N.W., Room 235
Washington, D.C. 20554

Gayle Radley Teicher*
Network Services Division
Common Carrier Bureau
2000 M Street, N.W., Room 235
Washington, D.C. 20554

Michael Altshul, General Counsel
Cellular Telecommunications Industry
Association
1250 Connecticut Ave., N.W., Suite 200
Washington, D.C. 20036

Andrea D. Williams, Attorney
Cellular Telecommunications Industry
Association
1250 Connecticut Ave., N.W., Suite 200
Washington, D.C. 20036

Mary McDermott, Senior Vice President,
Government Relations
Personal Communications Industry
Association
500 Montgomery Street, Suite 700
Alexandria, VA 22314

* by Hand Delivery